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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/691,589	10/18/2000	Lirio Quintero	154-12786-US-CIP	5046

23770 7590 07/15/2004

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EXAMINER

METZMAIER, DANIEL S

ART UNIT PAPER NUMBER

1712

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/691,589

Applicant(s)

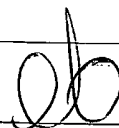
QUINTERO, LIRIO

Examiner

Daniel S. Metzmaier

Art Unit

1712



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/24/2003; 4/8/2004 & 4/29/2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-15, 25, 29, 37-46, 49, 50 and 53-193 is/are pending in the application.
- 4a) Of the above claim(s) 37-42 and 53-79 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-14, 25, 29, 43-46, 49, 50, 80-101 and 105-193 is/are allowed.
- 6) ☒ Claim(s) 15 is/are rejected.
- 7) ☒ Claim(s) 102-104 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claims 2-15, 25, 29-29, 37-42, 43-46, 49-50, 53-79 and 80-193 are pending.

Claims 37-42 and 53-79 have been withdrawn as directed to non-elected inventions.

Election/Restrictions

1. This application contains claims 37-42 and 53-79 drawn to an invention nonelected without traverse in the reply filed on October 8, 2002.
2. Regarding the prior art below the claims are interpreted as not requiring said silicate solution. Claims are given their broadest reasonable interpretation. See MPEP 2111.

Double Patenting

3. Claims 102-104 objected to under 37 CFR 1.75 as being a substantial duplicate of claims 3, 6, and 9. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

The applicants should check the 145 pending claims for any and all occurrences of duplicate claims and take appropriate action. In particular claim 101 claims a broad and a narrow range for the number of carbons in the polyoxyethylene alcohols. Claims are given their broadest reasonable interpretation and said narrow range has been given patentable no weight. To the extent applicants intended the first range to define the number of carbons in the "alkane sulfates, alkaline sulfonates, and phosphate

esters", applicants should specifically review the remaining claims for occurrences of duplicate claims.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Otrhalek et al, US 4,032,466. Otrhalek et al (example 3 and claims, particularly claim 8) discloses compositions reading on the claims. Said compositions (all parts are by weight – see column 8, lines 59-62) comprise 12 parts alpha-alkyl-omega-hydroxy poly(oxyethylene) with an average of 9 moles of oxyethylene, 4 parts of linear alkyl sulfonic acid, denoted as Calsoft LAS-99, and 30 parts of 37% hydrochloric acid. The nonionic (12) to anionic (4) ratio equates to 75/25, which reads on the claimed ratios. The pH would have been inherent to the 30 parts of the 37% hydrochloric acid. Typical pH of a 0.1N HCl solution is pH = 0.1. 0.1N equates to about a 3.6% hydrochloric acid solution. The concentration of the hydrochloric acid media of Otrhalek et al is an order of magnitude greater and would have been expected to have a pH of 1 or less.

Allowable Subject Matter

6. Claims 2-14, 25, 29, 43-46, 49-50, 80-101, 105-193 are allowed.

7. The indicated allowability of claim 15 has been withdrawn in view of applicants' amendments. Specifically, the allowable claims required "polymerization of

encapsulating material" wherein amended claim 15 requires "media adapted to initiate acid reactive polymerization upon exposure to polymerizable silicate solution". Since encapsulation is no longer required of said media and the only requirement for said polymerization is an aqueous acid of sufficient acidity, said claims are now deemed to read on the prior art.

Response to Arguments

8. Applicant's arguments filed October 24, 2003 have been fully considered but they are not persuasive.
9. Applicants (page 22 and 23) argue the Otrhalek et al reference teaches a flocculating agents and the instant claims require encapsulation. Said arguments were made prior additional amendments, which moot the statements. Said claims no longer require said encapsulation capability.
10. Applicant's arguments with respect to claims 15 and 102-104 have been considered but are moot in view of the new ground(s) of rejection and/or objections.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Metzmaier whose telephone number is (703) 308-0451. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P. Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Daniel S. Metzmaier
Primary Examiner
Art Unit 1712